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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,351	08/04/2003	Chon Yie Lin	2002B107A	8824

23455            7590            12/05/2005  
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EXAMINER
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LEE, RIP A

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



### **DETAILED ACTION**

This office action follows a response filed on August 30, 2005. Applicants have amended claim 1 to limit further the type of plasticizer and polyolefin. New claims 63-88 were added. Claims 1-35 and 57-88 are pending.

#### ***Election/Restrictions***

1. Applicant's election with traverse of claims 1-35, and currently, 57-88, in the recent reply is acknowledged. The traversal is on the ground(s) that further search of non-elected claims does not constitute additional burden on the examiner. This is not found persuasive; groupings of claims have been restricted for the appropriate reasons set forth in the previous office action. The requirement is still deemed proper and is therefore made FINAL.

#### ***Claim Objections***

2. Claims 57 and 60 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 6 and 26, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

3. Claim 86 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 1. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Since claims 1 and 86 are not process claims, they are drawn to essentially the same inventive concept.

***Claim Rejections - 35 USC § 102 / 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-4, 6, 9-14, 16, 19, 20, 57, 58, 63, 71, 86, and 87 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwasaki *et al.* (U.S. 5,240,966).

Iwasaki *et al.* discloses a material in which 500 g of polypropylene are treated with 150 g of Lucant HC-10 (example 8). The latter is a non-functionalized plasticizer made from decene oligomer and C<sub>2</sub>/α-olefin, and it has the following properties: pour point = -53 °C; M<sub>n</sub> = 590, specific gravity = 0.826.<sup>†</sup> As such, the polypropylene is adequately plasticized, as per the recitation of the instant claims. Compositions are ultimately used in the manufacture of fibers or films (col. 1, line 29 and col. 6, line 36).

6. Claims 5, 7, and 8 under 35 U.S.C. 103(a) as being unpatentable over Iwasaki *et al.*

The discussion of the disclosures of the prior art from the previous paragraph of this office action is incorporated here by reference. The patent is silent with respect to the physical properties of the instant claims, however in view of the large viscosity and dielectric constant range recited in the claims and in light of the fact that the composition of Iwasaki *et al.* is essentially the same as that of the instant claims, a reasonable basis exists to believe that the material shown in the patent exhibits essentially the same properties. Since the PTO can not conduct experiments, the burden of proof is shifted to the Applicants to establish an unobviousness difference. *In re Fitzgerald*, 619 F.2d. 67, 205 USPQ 594 (CCPA 1980). See MPEP § 2112-2112.02.

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<sup>†</sup> Data culled from Applicant's copending specification 10/640,435; page 95.

Art Unit: 1713

7. Claims 21-32, 34, 35, 60, 61, 64, 72, 86, and 87 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Iwasaki *et al.* for the same reasons set forth in paragraphs 4 and 5 (*supra*).

In this case, one of the property recitations appears in independent claim 21. The patent is silent with respect to physical properties recited in claims 25, 27, and 28. Nonetheless, the composition disclosed in Iwasaki *et al.* is essentially the same as that recited in the instant claims. Therefore, a reasonable basis exists to believe that the material shown in the patent exhibits essentially the same properties. Since the PTO can not conduct experiments, the burden of proof is shifted to the Applicants to establish an unobviousness difference. *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

8. Claims 1-4, 9-14, 16, 19, 20, 71, and 86 are rejected under 35 U.S.C. 102(b) as being anticipated by Sasaki *et al.* (JP 11-049903).

Sasaki *et al.* teaches a copolymer of ethylene and propylene (*i.e.*, propylene copolymer) plasticized with a non-functionalized paraffinic oil having a pour point of from -40 to 0 °C (abstract, paragraph [0017]). The oil is used in an amount of not more than 20 wt % (paragraph [0018]). The polymer is used for manufacture of film.

9. Claims 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki *et al.*

The discussion of the disclosures of the prior art from the previous paragraph of this office action is incorporated here by reference. The patent is silent with respect to the physical properties of the instant claims, however in view of the large viscosity and dielectric constant range recited in the claims and in light of the fact that the composition of Iwasaki *et al.* is essentially the same as that of the instant claims, a reasonable basis exists to believe that the material shown in the patent exhibits essentially the same properties. Since the PTO can not conduct experiments, the burden of proof is shifted to the Applicants to establish an unobviousness difference. *In re Fitzgerald*, 619 F.2d. 67, 205 USPQ 594 (CCPA 1980). See MPEP § 2112-2112.02.

Art Unit: 1713

10. Claims 21-32, 34, 35, 72, and 86 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sasaki *et al.* for the same reasons set forth in paragraphs 8 and 9 (*supra*).

Here, one of the property recitations appears in independent claim 21. The patent is silent with respect to physical properties recited in claims 25, 27, and 28. Nonetheless, the composition disclosed in Iwasaki *et al.* is essentially the same as that recited in the instant claims. Therefore, a reasonable basis exists to believe that the material shown in the patent exhibits essentially the same properties. Since the PTO can not conduct experiments, the burden of proof is shifted to the Applicants to establish an unobviousness difference. *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

11. Claims 15, 17, 18, 33, 59, 62, 65-70, 73-85, and 88 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The cited reference does not teach use of plasticizer having a pour point of less than -60 °C. There is no teaching or suggestion to include isotactic polypropylene, propylene impact copolymer, plastomer, or metallocene-catalyzed polymer in the compositions shown in the prior art. Since the material is used as a masterbatch, there is no teaching of use of nucleating agents.

#### ***Response to Arguments***

12. The rejections of claims over Medsker *et al.* (U.S. 6,084,031), Wisneski *et al.* (U.S. 4,663,220), Nishio *et al.* (U.S. 6,001,455), and Maehara *et al.* (U.S. 4,703,078) have been overcome by amendment.

Art Unit: 1713

### *Conclusion*

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### *Prior Art*

11. The prior art made of record but not relied upon is considered pertinent to the Applicant's disclosure.

Varma *et al.* (U.S. 4,693,838) teaches a composition in which 84 g of ethylene-propylene copolymer is dissolved in 108 g of SHF-41 PAO oil (example 9). The latter is a non-functionalized plasticizer derived from decene oligomer and has a pour point of -66 °C. In this case, the amounts of polyolefin and plasticizer lie beyond the claimed ranges.

Fausnight *et al.* (U.S. 5,700,312) discloses a polishing composition comprising 0.7 wt % of PE wax and 5 wt % of Isopar V. The latter is a non-functionalized isoparaffin having a pour point of -63 °C.

Takeshi *et al.* (U.S. 5,079,287) discloses a resin composition comprising 100 pw of ultra high molecular weight polyethylene (UHMWPE) and 2 pw of Lucant HC100 (non-functionalized ethylene/ $\alpha$ -olefin copolymer having a pour point of -32.5 °C).

Art Unit: 1713

***Information Disclosure Statement***

12. Corrections to the information disclosure statement have been made (references EK, GM, HT, IH, NY, NZ, and PN). References OD, OF, OG, OZ, and PA were not considered because these references are not remotely germane to the general field of endeavor of the instant invention. References PE and PF were not received. The twelve references RE through RP on page 20 were not considered because they have been cited in earlier pages of the current IDS.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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November 23, 2005



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